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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Aguila Management LLC,

10 Plaintiff,

11 v.

12 Anthony Vineyards Inc.,

13 Defendant.
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No. CV-20-00247-PHX-JJT

ORDER

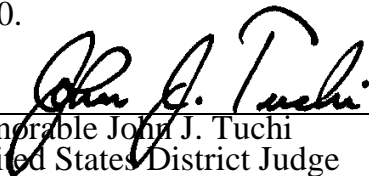
15 At issue is Plaintiff's Notice of Filing First Amended Complaint by Written Consent
16 (Doc. 36) and First Amended Complaint (Doc. 37). In the Notice, Plaintiff informs the
17 Court that it obtained Defendant's consent to file a First Amended Complaint, which
18 satisfies the requirements of Federal Rule of Civil Procedure 15(a)(2). However, the Court
19 entered a Scheduling Order in this matter (Doc. 24) setting a deadline for amending the
20 Complaint of June 19, 2020, and Plaintiff's amendment is well past that deadline. Plaintiff
21 has neither requested an extension to the deadline nor demonstrated good cause for an
22 extension under Federal Rule of Civil Procedure 16(b)(4), which allows extensions only
23 with the Court's consent. That is, Defendant's consent is insufficient once the deadline in
24 the Scheduling Order has passed.

25 "Rule 16(b)'s 'good cause' standard primarily considers the diligence of the party
26 seeking the amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th
27 Cir. 1992). Thus, a party moving to amend the Complaint must first demonstrate that it
28 worked diligently to comply with the schedule as set forth in the Scheduling Order. *Morgal*

1 *v. Maricopa Cty. Bd. of Supervisors*, 284 F.R.D. 452, 459-60 (D. Ariz. 2012). Plaintiff
2 makes no such showing here.

3 IT IS THEREFORE ORDERED that, by October 7, 2020, Plaintiff shall file a
4 Motion for an Extension of Time with regard to the deadline for amending the complaint
5 set forth in the Scheduling Order (Doc. 24) demonstrating good cause for the extension.
6 Defendant may file a Response within the applicable time limit. If Plaintiff fails to
7 demonstrate the requisite good cause for an extension, the Court will strike the First
8 Amended Complaint (Doc. 37).

9 Dated this 1st day of October, 2020.

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11 Honorable John J. Tuchi
12 United States District Judge
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